

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

July 22, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 97-0595-CR

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

v.

MICHAEL R. CHAMPEAU,

DEFENANT-APPELLANT.

APPEAL from a judgment of the circuit court for Outagamie County: JOSEPH M. TROY, Judge. *Affirmed.*

MYSE, J. Michael R. Champeau appeals his conviction for operating while intoxicated fourth offense. Champeau contends that the officer did not have a reasonable suspicion upon which to base his initial stop. Because

we conclude the officer had a reasonable suspicion to make the initial *Terry*¹ stop, the judgment is affirmed.

The facts are undisputed. On May 22, 1996, officer Michael S. Bartlein was on patrol in a neighborhood that had recently suffered a string of burglaries. At approximately 3 a.m., Bartlein observed Champeau's vehicle in a newly constructed park and ride lot. The lot had not yet been opened for use. The vehicle was dark but had its brake lights activated. After passing the lot, Bartlein turned around and entered the parking lot. Champeau's vehicle was facing the opposite direction it had been when Bartlein originally passed and continued to have only brake lights on. As Bartlein exited his vehicle, he observed that the vehicle had two occupants. Before Bartlein could approach Champeau's vehicle, Champeau turned on his headlights and drove out of the parking lot. Bartlein followed Champeau. Champeau stopped at a stop sign and remained stopped for five to six seconds. Bartlein then activated his overhead lights and stopped Champeau.

An investigative stop is a seizure under the Fourth Amendment and is only permitted if an officer has a reasonable, articulable suspicion of unlawful activity. *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968). It is not necessary that the officer have probable cause to suspect criminal activity, but merely that the officer have a reasonable basis to perform an investigatory stop. *State v. Waldner*, 206 Wis.2d 51, 58, 556 N.W.2d 681, 685 (1996). Whether an officer has a reasonable basis to conduct an investigatory stop is a question of law, which this court

¹ See *Terry v. Ohio*, 392 U.S. 1 (1968).

resolves de novo. *State v. Turner*, 136 Wis.2d 333, 343-44, 401 N.W.2d 827, 832 (1987).

We conclude that a reasonable basis existed to initiate an investigatory stop. Champeau's vehicle was parked in a closed park and ride lot at approximately 3 a.m. The vehicle had its brake lights on but was otherwise dark. As the officer approached the vehicle, Champeau turned on his headlights and pulled out of the lot, but then stopped after a short distance at a stop sign for an unusually long period. In addition, several burglaries had occurred in the area recently. For a valid *Terry* stop, it is only necessary that the circumstances create reasonable suspicion justifying further investigation. *Waldner*, 206 Wis.2d at 58, 556 N.W.2d at 684. The late hour, the unexplained parking in a closed lot, the departure from the lot just as the officer approached and Champeau's unusually long stop at the stop sign create a reasonable suspicion justifying further investigation.

This court concludes a reasonable basis existed for the investigatory stop. Accordingly, the judgment is affirmed

By the Court.—Judgment affirmed.

This opinion will not be published. RULE 809.23(1)(b)4, STATS.

